

GIBSON, DUNN & CRUTCHER LLP
M. SEAN ROYALL (admitted *pro hac vice*)
MONIQUE MICHAL DRAKE (SBN 167188)
MICHAEL A. SITZMAN (SBN 156667)
One Montgomery Street, Suite 3100
San Francisco, California 94104
Telephone: (415) 393-8200
Facsimile: (415) 986-5309
Email: sroyall@gibsondunn.com
Email: mdrake@gibsondunn.com
Email: msitzman@gibsondunn.com

Attorneys for Defendants
ALZA CORPORATION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE: DITROPAN XL ANTITRUST
LITIGATION

CASE No. MDL Docket No. 1761 (JSW) (EDL)

THIS DOCUMENT RELATES TO:

THE INDIRECT PURCHASER ACTION

**STIPULATION AND ~~PROPOSED~~ ORDER
TO EXTEND TIME TO PROVIDE
DEFENDANT'S PRIVILEGE LOG**

This Stipulation is entered into by and between the Indirect Purchaser Plaintiffs ("Plaintiffs") and Defendant Alza Corporation ("Defendant"), through their counsel of record, concerning an extension of time for Defendant to provide a privilege log.

On January 26, 2007, Defendant served its Objections and Responses to Indirect Purchaser Plaintiffs' First Set of Requests for Production of Documents and Things. Pursuant to an agreement of the parties, Defendant intends to make a rolling production of its paper documents beginning on or before February 12, 2007. Pursuant to Paragraph 5 of this Court's Standing Order Re: Discovery Procedures, Defendant's privilege log would ordinarily be due on February 9, 2007. The parties have agreed to extend this deadline for Defendant's production of a privilege log, for the reasons set forth below.

It is Defendant's position that the volume of privileged materials in this case is likely to be significant, as Plaintiffs' claims include assertions of sham litigation of an underlying patent

infringement suit. Further, Plaintiffs intend to move to pierce the attorney-client privilege and the attorney work-product doctrine otherwise applicable under what they assert is a crime-fraud exception (the "Motion"). According to Plaintiffs, if they are successful in the Motion, the volume of materials to be logged will be significantly reduced. Defendant disputes Plaintiffs' assertion that any crime-fraud exception applies or that any attorney-client privilege or work product protection in this matter can be pierced. Nonetheless, in order to resolve the current privilege issues in the most efficient manner, the parties have agreed to postpone the preparation and service of a privilege log until after the Court has been presented with and has ruled upon Plaintiffs' Motion.

Accordingly, pursuant to Fed. R. Civ. P. 37 and Civil L.R. 37-1(a), the parties hereto agree and stipulate to the following and request the Court's approval thereof:

Defendant shall be temporarily relieved of any duty to provide Plaintiffs with a privilege log otherwise required under Fed. R. Civ. P. 26(b)(5) and this Court's Standing Order Re: Discovery Procedures, ¶ 5, until such time as Plaintiffs' Motion is heard and decided by the Court.

STIPULATED AND AGREED TO BY:

Dated: February 8, 2007

ZIMMERMAN REED, P.L.L.P.

By: /s/
Timothy J. Becker

Attorneys for Indirect Purchaser Plaintiffs

Dated: February 8, 2007

GIBSON, DUNN & CRUTCHER LLP

By: /s/
Michael A. Sitzman

Attorneys for Defendant ALZA CORPORATION

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: February 12, 2007

Magistrate Elizabeth D. Laporte
United States District Court
District of Columbia



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